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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/396,612

09/15/1999

J. CLARKE STEVENS

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06/02/2006

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

OFFICE ACTION

Reply to Prior Office Action is Non-Responsive

1. The reply filed timely on January 23, 2004 is not fully responsive to the prior Office action, mailed January 12, 2004, because it fails to correct all of the defects identified in that Notification of Non-Compliant Appeal Brief under 37 CFR 1.192(c). The previously identified defects which continue to remain uncorrected are repeated in the notice of defective appeal brief below.

2. Since the above-mentioned reply appears to be *bona fide*, applicant is given a time period of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction, in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Notice of Defective Appeal Brief

3. The revised Appeal Brief, filed on January 23, 2004, remains defective for at least the following reason(s):

- I. The brief includes a statement that claims 1-8 and 10 do not stand or fall together, but fails to present valid reasons in support thereof as required under 37 CFR § 1.192(c)(7). See MPEP § 1206.

4. Regarding Item I, above, concerning appellant's grouping of claims, appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because appellant fails to offer any explanation as to why the claims of each group are believed to be *separately patentable*, in the manner required by 37 CFR § 1.192(c)(7), which states:

(7) *Grouping of claims.* For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.

Appellant's arguments merely point out differences in the claims, which is *not* an argument as to why the claims are *separately patentable*, as explicitly set forth by rule in 37 CFR § 1.192(c)(7).

Therefore, for purposes of appeal, claims 1-8 and 10 should all stand or fall together as a single group, since appellant's brief does not include *both* a statement that these claims do not stand or fall together *and* valid reasons in support thereof.

Conclusion

5. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is (571) 272-6787, and whose facsimile number is (571) 273-6787.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at (571) 272-6771.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

May 25, 2006

 5/25/06

Gerald J. O'Connor

Primary Examiner

Group Art Unit 3627